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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,863	08/28/2003	Takashi Ohzeki	0505-1216P	6367
2292	7590	05/11/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			NOVOSAD, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 05/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/649,863	Applicant(s) OHZEKI ET AL. W	
	Examiner Christopher J. Novosad	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-28 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 12-15, 20-24 and 26-28 is/are rejected.
 7) ☒ Claim(s) 16-19 and 25 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/971,027.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-11 have been canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20 and 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 20, line 1, the recitation "the rods" lacks proper antecedent basis. To correct this, the dependency of claim 20 should be changed so that claim 20 depends from claim 14 or claim 15 rather than from claim 12 to provide proper antecedent basis for "the rods" in line 1 of claim 20.

In claim 26, line 1, the recitation "said frame", and in claim 26, line 2, the recitation "said upwardly projecting side walls" lacks proper antecedent basis. To correct this, claim 26 should depend from claim 22 rather than from claim 21 to provide proper antecedent basis for "said frame" and "said upwardly projecting side walls".

In claim 26, the second to last line, and in claim 27, line 3, the recitation "may be" is indefinite since it is unclear whether the element or function is intended or not.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-15 and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by

Russo.

With respect to claim 12, Russo shows a beach cleaner 1 for recovering waste comprising:

a grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) for scooping up waste as the beach cleaner 1 is moved, the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being inclined from a front portion (right side of Figs. 1 and 2) towards a rear portion (left side of Figs. 1 and 2) for positioning the front portion (right side of Figs. 1 and 2) at a lower position relative to the rear portion (left side of Figs. 1 and 2),

the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being bent at an intermediate position (unnumbered; adjacent 43,11 in Figs. 1 and 2) supported by a support rod (unnumbered) extending in the transverse direction, the front portion (right side of Figs. 1 and 2) and the rear portion (left side of Figs. 1 and 2) sloping downwardly from opposite sides of the support rod (unnumbered) when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a position (not shown) with the top of the handle 3 and tips 27,23,21 simultaneously in contact with the ground (beach surface); and

a reticulate portion 61 formed behind the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2), the reticulate portion 61 including a front portion 71 and a rear portion 69 wherein the

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rear portion 69 is inclined relative to the front portion 71 for positioning the rear portion 69 of the reticulate portion 61 at a location that is lower relative to the front portion 71 when the beach cleaner 1 is turned from the vertical position shown in Fig. 1 to a horizontal position (not shown) for holding waste.

As to claim 13, reticulate portion 61 includes a frame (darker line, unnumbered, in Figs. 1 and 2; or member 5 in Figs. 1 and 2) and a chamber (unnumbered) having a lower wall 69, two upwardly projecting side walls 63,65 and a rear wall 69 when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a horizontal position (not shown), at least the lower wall 69 including openings (unnumbered) therein for enabling sand to return by gravity to the beach.

Regarding claim 14, the lower wall 69 includes a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping waste in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

With respect to claim 15, the lower wall 69, the two upwardly projecting side walls 63,65 and the rear wall 67 include a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping wastes in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

As to claim 20, the rods (unnumbered) are arranged at equal intervals in the transverse direction of the beach cleaner 1.

Regarding claim 21, Russo shows a beach cleaner 1 for recovering waste comprising a grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) for scooping up waste as the beach cleaner 1 is moved, the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being inclined from a front

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portion (right side of Figs. 1 and 2) towards a rear portion (left side of Figs. 1 and 2) for positioning the front portion (right side of Figs. 1 and 2) at a lower position relative to the rear portion (left side of Figs. 1 and 2); and

a reticulate portion 61 formed behind the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2), the reticulate portion 61 including a front portion 71 and a rear portion 69 wherein the rear portion 69 is inclined relative to the front portion 71 for positioning the rear portion 69 of the reticulate portion 61 at a location that is lower relative to the front portion 71 when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a horizontal position (not shown) for holding waste, wherein an angle of the reticulate portion 61 relative to a horizontal plane (not shown) is set smaller than the angle of the front portion (right side of Figs. 1 and 2) of the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) relative to the horizontal plane (not shown) when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a position (not shown) with the top of handle 3 and tips 27,23,21 simultaneously in contact with the ground surface.

With respect to claim 22, the reticulate portion 61 includes a frame (darker line, unnumbered, in Figs. 1 and 2; or member 5 in Figs. 1 and 2) and a chamber (unnumbered) having a lower wall 69, two upwardly projecting side walls 63,65 and a rear wall 69 when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a horizontal position (not shown), at least the lower wall 69 including openings (unnumbered) therein for enabling sand to return by gravity to the beach.

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Regarding claim 23, the lower wall 69 includes a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping waste in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

As to claim 24, the lower wall 69, the two upwardly projecting side walls 63,65 and the rear wall 67 include a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping wastes in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Alternatively, with respect to claim 12, Russo shows a beach cleaner 1 for recovering waste comprising:

a grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) for scooping up waste as the beach cleaner 1 is moved, the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being inclined from a front portion (right side of Figs. 1 and 2) towards a rear portion (left side of Figs. 1 and 2) for positioning the front portion (right side of Figs. 1 and 2) at a lower position relative to the rear portion (left side of Figs. 1 and 2),

the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being bent at an intermediate position (unnumbered; adjacent 43,11 in Figs. 1 and 2) supported by a support rod (unnumbered) extending in the transverse direction, the front portion (right side of Figs. 1 and 2) and the rear portion (left side of Figs. 1 and 2) sloping downwardly from opposite sides of the support rod (unnumbered) when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a position (not shown) with the top of the handle 3 and tips 27,23,21 simultaneously in contact with the ground (beach surface); and

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a reticulate portion 61 formed behind the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2), the reticulate portion 61 including a front portion 69 or 67 and a rear portion 71 wherein the rear portion 71 is inclined relative to the front portion 69 or 67 for positioning the rear portion 71 of the reticulate portion 61 at a location that is lower relative to the front portion 69 or 67 when the beach cleaner 1 is in the position shown in Figs. 1 and 2 for holding waste.

Alternatively, as to claim 13, reticulate portion 61 includes a frame (darker line, unnumbered, in Figs. 1 and 2; or member 5 in Figs. 1 and 2) and a chamber (unnumbered) having a lower wall 69, two upwardly projecting side walls 63,65 and a rear wall 69 when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a horizontal position (not shown), at least the lower wall 69 including openings (unnumbered) therein for enabling sand to return by gravity to the beach.

Alternatively, regarding claim 14, the lower wall 69 includes a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping waste in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Alternatively, with respect to claim 15, the lower wall 69, the two upwardly projecting side walls 63,65 and the rear wall 67 include a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping wastes in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Alternatively, as to claim 20, the rods (unnumbered) are arranged at equal intervals in the transverse direction of the beach cleaner 1.

Alternatively, regarding claim 21, Russo shows a beach cleaner 1 for recovering waste comprising a grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) for scooping up waste as the

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beach cleaner 1 is moved, the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being inclined from a front portion (right side of Figs. 1 and 2) towards a rear portion (left side of Figs. 1 and 2) for positioning the front portion (right side of Figs. 1 and 2) at a lower position relative to the rear portion (left side of Figs. 1 and 2); and

a reticulate portion 61 formed behind the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2), the reticulate portion 61 including a front portion 69 or 67 and a rear portion 71 wherein the rear portion 71 is inclined relative to the front portion 69 or 67 for positioning the rear portion 71 of the reticulate portion 61 at a location that is lower relative to the front portion 69 or 67 when the beach cleaner 1 is in the position shown in Figs. 1 and 2 for holding waste, wherein an angle of the reticulate portion 61 relative to a horizontal plane (not shown) is set smaller than the angle of the front portion (right side of Figs. 1 and 2) of the grating portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) relative to the horizontal plane (not shown) when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a position (not shown) with the top of handle 3 and tips 27,23,21 simultaneously in contact with the ground surface.

Alternatively, with respect to claim 22, the reticulate portion 61 includes a frame (darker line, unnumbered, in Figs. 1 and 2; or member 5 in Figs. 1 and 2) and a chamber (unnumbered) having a lower wall 71, two upwardly projecting side walls 63,65 and a rear wall 69 when the beach cleaner 1 is in the position shown in Figs. 1 and 2, at least the lower wall 71 including openings (unnumbered) therein for enabling sand to return by gravity to the beach.

Alternatively, regarding claim 23, the lower wall 71 includes a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping waste in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Alternatively, as to claim 24, the lower wall 71, the two upwardly projecting side walls 63,65 and the rear wall 69 include a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping wastes in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Response to Arguments

Applicant's arguments filed in the remarks of the amendment filed April 7, 2004 have been fully considered but they are not persuasive.

Contrary to Applicant's arguments on page 9 of the remarks of the amendment, Russo shows these limitations as noted in the rejections above.

Allowable Subject Matter

Claims 16-19 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 26-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

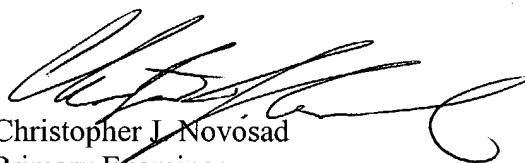
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

May 10, 2004